

ANDREA BEATTY RINKER
Director



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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August 27, 1986

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Superfund Branch

Mr. Gary W. Haight
Keytronics, Inc.
P.O. Box 14687
Spokane, WA 99214-0687

Dear Mr. Haight:

This letter is in response to your letter of July 16, 1986 concerning the Colbert Landfill. I have delayed answering it until after I was able to attend the commissioners meeting on July 31. I had hoped to answer some of Keytronics questions at that meeting in person.

The first issue I would like to address is the 60 day time period Ms. Kraege gave you for responding to remedial activities. This period of time has no agency basis as a legal time limit for you to respond nor does it necessarily obligate the agency to approve requests to do remedial activities. It was Ms. Kraege's intention to have Keytronics formally commit themselves to a position as it relates to their responsibilities as a responsible party. Previous discussions during the past several years with the county and Keytronics have never elicited a strong commitment to do the remedial investigation or feasibility study. This may be because of some misunderstanding or confusion about CERCLA and the "Superfund" process. You have participated in the Initial Remedial Measure of placing water lines, which was funded partially by your company, the county and state referendum money. The county and Keytronics, despite being aware of the possibility of participating in the RI/FS did not commit themselves to do so. This is why the state is doing it now. The prevailing consensus seems to have been "wait and see."

This historical view is based on my review of our files, conversations with Ms. Kraege and others. The question of your participation in the RI/FS itself is therefore, moot at this time.

The appropriate time for participation by the County, Keytronics and any other responsible parties, is after the Feasibility Study, during the public comment period, and after choice of the Remedial Action, (Record of Decision), is made. After that an order will be issued to the responsible parties to do the Remedial Design phase. Remedial Action will eventually follow the Remedial Design.

At this time (August 27, 1986) the only Interim Remedial measures the county or Keytronics could undertake which may be "consistent with the Requirements of Law" are an accelerated hook up of water to affected residents; with the understanding that some hookups may include wells

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presently under federal health limits (based on the assumption that levels may increase or exceed health limits). Expansion of the water system laterals to areas not served (based on the assumption that the pollution levels might increase); and ongoing or expanded monitoring could also be consistent with law.

These activities might also become part of the final Remedial Action suggested by the Feasibility Study.

The draft Remedial Investigation Report has been reviewed by Ecology, EPA, citizens groups and I assume, Keytronics, and the county. Correction of errors are being made and the report will become a draft final RI report. It will be included with the Feasibility Study when that document is completed.

New data can become part of the RI/FS report at any time up to decisions on the remedy. Because of the nature of hazardous waste sites and their complex hydrogeology and solutions, the submission of viable data remains open.

The remedial report or remedial investigation/feasibility study does not of course have to be approved by the responsible parties. Numerous case law has up-held EPA and the state's ability to decide the appropriateness and validity of the Remedial Investigation data collected; and the selected remedy under the feasibility study.

There are provisions to fine tune the data later, especially when deciding a particular remedial action or placement of an alternative cleanup at a particular geographic location.

On a separate sheet labeled Exhibit 1-1 (Site Chronology) the steps and sequence used at National Priority sites have been outlined. Also, included is the first section and executive summary of the EPA guidance manual on Feasibility Studies.

Some of the key points to be aware of during the feasibility study are that the final feasibility study includes the remarks made during the public comment period and how they were addressed.

In draft form it may include the recommended remedial action alternative. If it is not included in the draft form it will after the "Record of Decision;" which is the formally accepted remedial action alternative. EPA will review the feasibility study, and produce the record of decision. The selection of the alternative by the Record of Decision brings to a close the RI/FS cooperative agreement for the site with Ecology. If the responsible party agrees to undertake the chosen action (remedial action) they will have to enter into an "order by consent" either with the state or with a consent decree with EPA.

If the state has the lead it may enter into another agreement with EPA for the Remedial Design oversight. Then the responsible party would negotiate

with the state on the design work necessary to implement the selected remedial action. EPA would again make sure the efforts were consistent with their policies and procedures.

If the responsible party goes with EPA, a consent order or decree will also be entered into and the Department of Ecology may have only management oversight and review of consistency with state laws. Because the state has lead responsibility now for the RI/FS it likely will have lead responsibility for the design stage. For planning purposes, I envision the timing for all these activities as follows:

<u>ACTIVITY</u>	<u>DATE</u>
Submission of the Draft Feasibility Study to Ecology (may or may not include selected remedial action.)	September 30, 1986
Internal review of Draft F/S completed	October 30, 1986
Submittal of Draft F/S to 30 day public comment	November 1, 1986
Hold public meeting to receive verbal comments.	Early December
Issue responsiveness summary	January 1986
Issue Record of Decision (select formally Remedial Action)	Feb-March, 1986
Issue order to responsible party for design	March-April, 1986
Begin Remedial Design (if responsible party does not respond to order)	April-May, 1986

The Department or EPA will issue an order to the responsible parties after the Record of Decision directing the responsible party to do the remedial design. If the responsible party fails to comply, the state in cooperation with EPA will do the design work and EPA will recover costs later. If EPA issues the order treble damages may be sought for failure to comply with their order.

After the design is completed, the state or EPA will issue an order to the responsible party directing them to complete the remedial action as per the remedial design. If the responsible party does not comply, the state will fund 50% of the construction costs and EPA the other 50%, both will cost recover their expenditures after construction. The time lines associated with the various phases have been included above in this letter. They are my best estimate now of what I expect to happen.

Some discussion at the meeting was directed toward our view of other potentially responsible parties and a comment made why other RPR's were not named. Neil Thompson explained why Fairchild AFB was not named and I stated the Department has insufficient evidence to include others. However,

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if such evidence is made available to myself and our Ecology lawyers, we will issue notice letters if the evidence is compelling enough.

Because we are approaching some very important milestones in this study I would like to strengthen my contacts with Keytronics and the County after the feasibility study. The use of a liaison person has caused some confusion, at least on my part as to the timing of meetings, who calls them, what the agendas are, and what advantages this presents to the process. Mr. Austin's real estate connections and position as an intermediary have never been totally satisfactory to me as a formal method of contact; nor has my infrequent meetings with the County Commissioners. I believe we need more ongoing staff-level type contact.

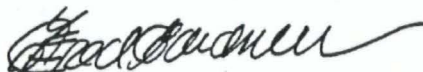
In the future I believe the County Utility and/or Engineering Department or possibly the County Health Department should be more active participants in the operational aspects of the program. This will be especially true during the remedial design phase of the project.

The Commissioners' interest in the problem and their desire to represent their constituents is certainly laudable; however, we will be involved in engineering, fiscal, and legal aspects after the feasibility study is completed. I would like to interact with those in the county who will be the key operational players in those areas. Of course, I am still prepared to meet the Commissioners as necessary and prior to key decisions.

Formulation of a working group composed of the Department of Ecology, EPA, the County Engineering Department, and County Health may help during the design stage. This group can then inform the Commissioners and Keytronics about key elements and decision points in the Remedial Design phase of the project and ask for their comments and input.

At this stage I am not sure what this process will consist of, but I will be making that decision in September or October. I hope this letter has answered most if not all of your concerns. If not, please feel free to contact me at (206) 459-6687 or write to me at the Department.

Sincerely,



Fred Gardner
Site Manager
Hazardous Waste Cleanup Program

FG:ra
Enclosures

cc: Spokane County Commissioners
Bruce Austin
Neil Thompson, EPA